

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

tmd3574/kfw  
March 5, 2020  
09:30 AM

=====X  
IN RE:

Case No. 819-78625-AST

TIMOTHY P. LORITO,

Hon. ALAN S. TRUST

**NOTICE OF MOTION**

Debtor.  
=====X

PLEASE TAKE NOTICE, that upon the within application, Marianne DeRosa, Chapter 13 Trustee will move this court before the Hon. Alan S. Trust, U.S. Bankruptcy Judge, at the United States Bankruptcy Court, at 290 Federal Plaza, Room 963, Central Islip, New York, 11722, on March 5, 2020 at 09:30 AM or as soon thereafter as counsel can be heard, for an order pursuant to 11 U.S.C. 1307(c) dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Responsive papers shall be filed with the bankruptcy court and served upon the Chapter 13 Trustee, Marianne DeRosa, Esq., no later than seven (7) business days prior to the hearing date set forth above. Any responsive papers shall be in conformity with the Federal Rules of Civil Procedure and indicate the entity submitting the response, the nature of the response and the basis of the response.

Date: Jericho, New York  
February 14, 2020

/s/ Marianne DeRosa  
MARIANNE DeROSA, TRUSTEE  
100 JERICHO QUADRANGLE; STE 127  
JERICHO, NY 11753  
(516) 622-1340

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IN RE:

Case No: 819-78625-AST

TIMOTHY P. LORITO,

Hon. ALAN S. TRUST

**APPLICATION**

Debtor.

=====X

TO THE HONORABLE ALAN S. TRUST U.S. BANKRUPTCY JUDGE:

MARIANNE DEROSA, Chapter 13 Trustee in the above-captioned estate, respectfully represents the following:

1. The Debtor filed a petition under the provisions of 11 U.S.C. Chapter 13 on December 24, 2019, and, thereafter, MARIANNE DEROSA was duly appointed and qualified as Trustee.

2. The Debtor's proposed Chapter 13 Plan (hereinafter referred to as "the Plan") is dated December 24, 2019 and reflected on the Court's docket as number 2. The Plan provides for payments in the amount of \$3,475.00 per month for a period of sixty months.

3. The Trustee objects to the confirmation of the Plan because the Plan does not specifically provide for treatment of all secured creditors as required by 11 U.S.C § 1325(a)(5).

4. Furthermore, the Debtor has failed to commence making Chapter 13 Plan payments to the Trustee as required by 11 U.S.C. § 1326(a)(1).

5. The Debtor's failure to provide these items impedes the Trustee's ability to administer this case and, therefore, is a default that is prejudicial to the rights of the creditors of the Debtor pursuant to 11 U.S.C. §1307(c)(1).

6. Each of the foregoing constitutes cause to dismiss this Chapter 13 case within meaning of 11 U.S.C. §1307(c).

WHEREFORE, the Chapter 13 Trustee respectfully requests that this Court enter an Order dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Dated: Jericho, New York  
February 14, 2020

s/Marianne DeRosa  
Marianne DeRosa  
Chapter 13 Trustee

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X Case No: 819-78625-AST

IN RE:

TIMOTHY P. LORITO,

CERTIFICATE OF SERVICE  
BY MAIL

Debtor.

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This is to certify that I, Kristin Wenzel, declare under penalty of perjury that I have sent the attached document to the below listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Notice by first class mail was sent to the following persons/entities:

TIMOTHY P. LORITO  
190 4TH AVENUE  
HOLTSVILLE, NY 11742

Notice by electronic transmission generated by the ECF system to the following person/entities pursuant to Bankruptcy Rule 9036:

- Cooper J. Macco, Esq., attorney for debtor: [cmacco@maccolaw.com](mailto:cmacco@maccolaw.com)
- Direct Capital Corporation, c/o Foster & Wolkind: [pfoster@foster-wolkind.com](mailto:pfoster@foster-wolkind.com)
- NYS Department of Taxation and Finance, c/o Josh Russell: [josh.russell@tax.ny.gov](mailto:josh.russell@tax.ny.gov)
- Sysco Connecticut, LLC and Sysco Long Island, LLC, c/o Borges & Associates, LLC: [ecfcases@borgeslawllc.com](mailto:ecfcases@borgeslawllc.com)

Transmission times for electronic delivery are Eastern Time zone.

This February 14, 2020

/s/Kristin Wenzel  
Kristin Wenzel, Paralegal  
Office of the Standing Chapter 13 Trustee  
Marianne DeRosa, Esq.  
100 Jericho Quadrangle; Ste 127  
Jericho, NY 11753  
(516) 622-1340

CASE NO: 819-78625-AST  
Hon. ALAN S. TRUST

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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IN RE:

TIMOTHY P. LORITO,

Debtor.

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NOTICE OF MOTION AND APPLICATION TO DISMISS CASE

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MARIANNE DeROSA, TRUSTEE  
100 JERICO QUADRANGLE; STE 127  
JERICO, NY 11753  
(516) 622-1340